IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1019 OF 2006

Ishwar Kisan Dhondi ...Petitioner

V/s

The State of Maharashtra & Ors. ...Respondents.

Mr.A.Y.Sakhare,Senior Advocate,with Mr.S.S.Tambekar
and Mr. T.G. Gaikwad for the Petitioner

Mr. R.D. Rae, Government Pleader,
for Respondents No. 1, 2 and 5.

CORAM: V.G. PALSHIKAR, Ag.C.J., &
SMT. NISHITA MHATRE, J.
DATE: FEBRUARY 21, 2006.

P.C.:-

By this petition, the petitioner has challenged the removal of the petitioner as President of Dahanu Municipal Council, on passing of No Confidence Motion by required number of Councillors.

2. Two contentions are raised for assailing the No Confidence Motion. Firstly, it is submitted that Section 55 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 speaks of removal of a President, and therefore, merely saying that the house has no confidence in the President is not sufficient compliance with the provisions of Section 55. It must say that the Councillors have no confidence in the President, and therefore, he has been removed. We see no force in the contention, for the simple reason that Section 55 itself postulates removal of President, and provides one of the ways to the passing of no confidence. The very purpose of saying that the House has no confidence in the President means that the House does not want him to be the President. To read anything more in the No confidence Motion is not necessary. The Resolution, as contemplated by the special meeting under Section 55 is for the purpose of removal, and if it is passed by the required majority, no further statement is necessary.

3. The second contention is that the demand was made for some ballot, which was illegally denied. The submission is that the rule for election of the President requires election through ballot, and consequently, the removal should also be

through ballot. There is no reason for us to accept this contention, because it is the established practice of passing motions or resolutions in public bodies by voice-vote or vote made by show of hands.

4. There is no substance in the petition. The same is rejected.